

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Serial No.: 09/865,822
Filed: 05/25/2001
Examiner: Zec, Flip
Confirmation No.: 5846
Art Unit: 3744
Applicants: John E. Davis, et al.
Title: FLUID ABSORBENT ARTICLE FOR SURGICAL USE
Atty. Doc.: TRIL-05

Cincinnati, Ohio 45202

June 29, 2010

MAIL STOP
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

DECLARATION OF GRETCHEN J. FRANCK

Gretchen J. Franck, being first duly cautioned and sworn, states as follows:

1. My name is Gretchen J. Franck, and I am the Senior Intellectual Property Paralegal and Docketing Administrator for the law firm of Wood, Herron, and Evans.
2. This Declaration serves as a timeline of events relative to our Firm's attempt to contact the corporate entity, TollamCo, Corp. with respect to the payment of the 4 year maintenance fees for U.S. Patent 6,603,052.
3. Our Firm sent an initial reminder letter on October 24, 2006 to Mr. John Davis at the corporation, TollamCo, Corp. At the time of the sending of this letter, our internal computer records indicated that their corporate address was 7195 E. Kemper Road, Cincinnati, Ohio 45249, and the letter was sent to that address. This letter contained information concerning services we can provide, if desired, for handling the payment of maintenance fees. It asks for instructions from the Patent Owner. The

initial letter was not returned to our Firm by the United States Postal Service as undeliverable, and we heard nothing further from Mr. Davis, Mr. Klonne, or TollamCo, Corp. in response to the letter.

4. Based on the language in the letter, patent owners are to indicate whether or not they wish our Firm to handle the payment of the maintenance fees. Absent an ongoing agreement with a patent owner, we do not automatically pay maintenance fees because many patent owners choose to handle the payment of these maintenance fees directly with the USPTO in order to save money. Some clients pay their own maintenance fees, some clients contact Wood, Herron & Evans to assist in paying the fees, and some clients have other firms or entities handle the payment of maintenance fees.

5. When instructions from the Patent owner for U.S. Patent No. 6,603,052 were never received in conjunction with our letter dated October 24, 2006, another letter was sent dated February 9, 2007. Wood, Herron & Evans did not have any ongoing business relationship with TollamCo, Corp., Mr. Davis, or Mr. Klonne at that time. The February, 2007 letter was sent via certified U.S. mail because we also did not have any ongoing contact with Mr. Davis, Mr. Klonne, or TollamCo, Corp. The '052 Patent is the only Patent property that was held by Mr. Davis or TollamCo, Corp. in our files. We did not have any standing instructions from Mr. Davis, Mr. Klonne, or TollamCo, Corp. regarding any ongoing legal matters or the payment of maintenance fees after the issuance of this Patent. We indicated in the certified letter that we would not pay the maintenance fees unless we received explicit instructions from the client to do so. A copy of this letter is attached as Exhibit A.

6. The letter dated February 9, 2007 was returned to our Firm marked by the United States Postal Service as undeliverable/unable to forward. A copy of this envelope is attached as Exhibit B. As a result of not having instructions to pay the first maintenance fee, and not hearing from Mr. Davis, Mr. Klonne, or TollamCo, Corp., no arrangements were made by Wood, Herron & Evans to have the fee paid.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the Application or any Patent issued thereon.

Further Declarant sayeth naught.

6-29-2010
Date

Gretchen J. Franck
Gretchen J. Franck

1st 2007

WOOD, HERRON & EVANS, L.L.P.

BRUCE TITTEL
DAVID S. STALLARD
J. ROBERT CHAMBERS
GREGORY J. LUNN
KURT L. GROSSMAN
CLEMENT H. LUKEN, JR.
THOMAS J. BURGER
GREGORY F. AHRENS
WAYNE L. JACOBS
KURT A. SUMME
KEVIN G. ROONEY
KEITH R. HAUPT
THEODORE R. REMAKLUS
THOMAS W. HUMPHREY
SCOTT A. STINEBRUNER
DAVID H. BRINKMAN
BEVERLY A. LYMAN, PH.D.
KRISTI L. DAVIDSON
KATHRYN E. SMITH
P. ANDREW BLATT, PH.D.
DAVID E. JEFFERIES

2700 CAREW TOWER
441 VINE STREET
CINCINNATI, OHIO 45202-2917
TELEPHONE: 513-241-2324
FACSIMILE: 513-241-6234
WEBSITE: www.whepatent.com

PATENT, TRADEMARK, COPYRIGHT
AND UNFAIR COMPETITION LAW
AND RELATED LITIGATION

EDMUND P. WOOD 1923-1968
TRUMAN A. HERRON 1935-1976
EDWARD B. EVANS 1936-1971

February 9, 2007

JOSEPH R. JORDAN
C. RICHARD EBY

WILLIAM R. ALLEN, PH.D.
JOHN PAUL DAVIS
DOUGLAS A. SCHOLER
BRETT A. SCHATZ
DAVID W. DORTON
SARAH OTTE GRABER
STEVEN W. BENINTENDI, PH.D.
RANDALL S. JACKSON, JR.
CARL J. BRAUCH
ADAM R. WEEKS
CHARLES R. FIGER

OF COUNSEL
JOHN D. POFFENBERGER
DAVID J. JOSEPHIC
DONALD F. FREI
THOMAS W. FLYNN
J. DWIGHT POFFENBERGER, JR.
BRADLEY D. BECK

Mr. John Davis
TollamCo. Corp.
7195 E. Kemper Road
Cincinnati, OH 45249

Certified

Dear John:

Attached is a printout showing your annuity falling due on patent property during the 1st quarter of 2007. This printout provides the current tax cost and the expiration year of the patent property. Please indicate whether or not you wish the property to be maintained for the current year by CIRCLING "Pay" or "Remove" opposite each case shown on the printout. In the event you indicate "Remove", the patent may become irrevocably abandoned.

For U.S. patents, the patent entity status is indicated on the printout along with an informational sheet defining the qualifications for small entity status. It is IMPERATIVE that you read the informational sheet and indicate whether the owner of the patent is listed correctly as a "large" or "small" entity. Please note that the payment of a U.S. maintenance fee based upon an incorrect entity status may provide an infringer with an intervening rights defense.

It is important that a copy of the printouts with your instructions be returned to us as soon as possible. For any U.S. patents, please also send to us the verified and signed entity status sheet attached to the U.S. printout. Since no instructions have been received to date, the application will be allowed to go abandoned unless instructed otherwise by February 23, 2007. I have added the late fees to the total amount due on the reminder/renewal notice attached. If we do not receive your instructions and total payment, we will NOT pay the fee.

Should you have any questions regarding the printouts, please contact Ms. Debra Wade, our Intellectual Property Paralegal. However, in the event that you have questions concerning the importance of the property and the need to renew, please contact me directly.

Very truly yours,

Debra Wade
for Kurt A. Summe
Kurt A. Summe

KAS:dsw
enclosures

EXHIBIT A

KAS

REMINDER / RENEWAL NOTICE

Wood, Herron & Evans, L.L.P

The following cases are due for renewal by the date indicated. Please enter your instructions to pay (circle PAY) or remove (circle REMOVE) where shown below and return this reminder or a copy thereof to us in good time before the due date. Your renewal instructions should be accompanied by a remittance unless alternate arrangements have been agreed.

Date
8/23/2006

Case	Due Date	Amount	Pay / Remove	Total Tax
United States Entity: Small 09/865,822 6,603,052	2/5/2007 46445 5/25/2021	4	TRIL 05 John E. Davis Fluid Absorbent Article for Surgical Use Client Reference:	\$ 623

1 Records for Client: TollamCo

SMALL ENTITY QUALIFICATIONS

Small Entity Status is defined in the U.S. patent rules as:

"any business concern as defined by the regulations of the Small Business Administration in 13 CFR 121.1301 through 121.1350, which define a small business concern as one whose number of employees, including those of its affiliates, does not exceed 500 persons and which has not assigned, granted, conveyed, or licensed, and is under no obligation under contract or law to assign, grant, convey or license, any rights in the invention to any person who could not be classified as an independent inventor if that person had made the invention, or to any concern which would not qualify as a small business concern or a non-profit organization under this section"

I have read the above statement and I verify that entity status indicated for the patent listed on the attached reminder is correct.

Signature

Date

NOTE: IF THE ENTITY STATUS FOR THE PATENT ON THE ATTACHED REMINDER IS NOT CORRECT, PLEASE NOTIFY US IMMEDIATELY IN ORDER FOR US TO PREPARE THE APPROPRIATE DOCUMENTS

\$04.640
02/09/2007
United From 45202
US POSTAGE

[illegible]

7005 0297 5002
9000 0297 5002
1222 9000 0297
2221 2901

A C S

☐ INSUFFICIENT ADDRESS
☐ ATTEMPTED NO SUCH NUMBER/
☒ NO SUCH NUMBER/
STREET
- UNDELIVERABLE AS ADDRESSED -
UNABLE TO FORWARD

John Davis Corp.

☐ OTHER

[illegible][illegible]

EXHIBIT B